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Application No.: 10/705,770

Attorney Docket No. 1572.1179

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

Ju-hwan KIM, et al.

Application No.: 10/705,770

Group Art Unit: 3632

Confirmation No.: 4363

Filed: November 12, 2003

Examiner: Tan Le

For: MONITOR

**RESPONSE TO NOTICE OF NON-COMPLIANT RESPONSE**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

In the Office Action mailed February 9, 2006, the Examiner asserted that the response filed November 23, 2005 was not fully responsive to the Office Action mailed September 23, 2005 because Applicants "did not state the ground of traversal as why the Species are not patentably distinct."

In the Office Action mailed September 23, 2005, without analysis or support, the Examiner asserted that the application includes claims directed to more than one invention, and divided the claimed inventions into two groups: Species I, FIGS. 1-5; and Species II, FIG. 6. Thus, without analysis or support, the Examiner merely declared that the divisions of Species I and Species II were distinct.

MPEP §803 sets forth the requisite criteria for properly restricting the claims of an application. MPEP §803 specifically requires that: (A) the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) that there must be a serious burden on the Examiner if restriction is not required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02).

MPEP § 803 also requires: "Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases." (MPEP §803 (II)).

Further, MPEP 808.02 requires that the Examiner, to show reasons for insisting upon restriction, must show by appropriate explanation, separate classification of the species, a separate status in the art when the species are classifiable together, or a different field of search for the species. (See MPEP §803.02 A-C).

As basis for the traversal, and as noted in the Response filed November 23, 2005, Applicants respectfully submit that the Examiner has provided no basis to assert that these groupings are distinct species.

Further, Applicants respectfully submit that the Examiner has not set forth how/why there would be a serious burden if restriction is not required.

Further still, Applicants respectfully submit that the Examiner has provided no such reason or explanation that separate classification of the species, a separate status in the art when the species are classifiable together, or a different field of search for the species exist with respect to the claimed invention.

As noted in the Specification, in paragraph 19, FIG. 6 is a partially exploded perspective view of the monitor of FIG. 1, showing a spring member. Thus, Applicants respectfully submit that, in accordance with the Examiner's division, FIGS. 1-5 are generic with respect to FIG. 6.

Further, Applicants respectfully submit that, in accordance with the Examiner's division, that claim 10 is directed to Species II, and claims 1-9, and 11-25 are generic with respect to Species I and II.

For the reasons set forth above, Applicants respectfully traverse the Restriction Requirement, and provisionally elect Species II (Claims 1-25).

Respectfully submitted,  
STAAS & HALSEY LLP

Date: March 9, 2006

By: Michael A. Bush  
Michael A. Bush  
Registration No. 48,893

1201 New York Ave, N.W., Suite 700  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501